

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BLACKIE FLORINCEO ALVAREZ SR.,

Plaintiff,

v.

GARY REDMAN, et al.,

Defendants.

No. 2:21-cv-01932-KJM-JDP (PC)

ORDER

Plaintiff, a former state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 4, 2023, the magistrate judge filed findings and recommendations, which were served on plaintiff and contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has filed objections.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Although plaintiff objected to the findings and recommendations, those objections do not change the analysis. Plaintiff's objections state his non-consent to the magistrate judge and his desire to stand on his original complaint, as well as characterize that complaint in his own way.

1 See Objs. at 1, ECF No. 23. First, plaintiff need not consent to a magistrate judge for that
2 magistrate judge to issue findings and recommendations in this case that do not resolve the case
3 or a portion of it. See L.R. 302(c). Second, to the extent plaintiff's objections respond to the
4 court's prior order to show cause, see Prior Order, ECF No. 21, plaintiff's decision to stand by his
5 original complaint warrants dismissal of his claims, as explained by the magistrate judge's prior
6 order, see Prior Order, ECF No. 4. Therefore, although plaintiff's failure to prosecute and
7 comply with court orders would be sufficient to dismiss this case, setting those reasons aside,
8 plaintiff's original complaint also does not state a claim and is thus dismissed.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations filed April 4, 2023, ECF No. 22, are adopted in
11 full;
- 12 2. This action is dismissed for failure to prosecute, failure to comply with court orders,
13 and failure to state a claim, for the reasons set forth in the May 10, 2022 and January 31, 2023
14 orders;
- 15 3. Plaintiff's motion for court order, ECF No. 17, is denied as moot; and
- 16 4. The Clerk of Court is directed to close the case.

17 DATED: July 10, 2023.

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20 CHIEF UNITED STATES DISTRICT JUDGE
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